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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/902,809	07/30/1997	KLAUS FLORIAN SCHUEGRAF	303.278US1	1584
21186	7590	08/23/2004	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402			NADAV, ORI	
			ART UNIT	PAPER NUMBER
			2811	

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	08/902,809	SCHUEGRAF ET AL. <i>[Signature]</i>
Period for Reply	Examiner	Art Unit
	ori_nadav	2811

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 02 October 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 23-31 and 36-65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 26-28,36,37,39-46,51-53,55-58,63 and 65 is/are allowed.
- 6) Claim(s) 23-25,29-31,38,47-50,54,59-62 and 64 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a spacer terminating at the boundary between a feature and an oxide layer and not being in contact with the oxide layer, as recited in claims 23, 47 and 49, and a layer of reoxidation on the spacer and the oxide layer, as recited in claims 25, 29, 30, 38, 48, 50, 54, 59 and 61, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 23-25, 29-31, 38, 47-50, 54, 59-62 and 64 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claimed limitations of a spacer terminating at the boundary between a feature and an oxide layer and not being in contact with the oxide layer, as recited in claims 23, 47 and

49, is a contradictory statement, and thus unclear, as to how a spacer can terminate (i.e. reach and be in contact with) at the boundary between the feature and the oxide layer, and still not be in contact with the oxide layer.

The claimed limitation of a layer of reoxidation forming a smile at the boundary between the feature and the oxide layer, as recited in claims 25, 29, 30, 38, 46, 48, 50, 54, 59, 61 and 64, is unclear as to how a layer of reoxidation can form a smile at the boundary between the feature and the oxide layer, when the layer of reoxidation is spaced apart from the boundary between the feature and the oxide layer, as clearly depicted in figure 2C of the present invention.

The claimed limitation of a layer of reoxidation on the spacer and the oxide layer, as recited in claims 25, 29, 30, 38, 48, 50, 54, 59 and 61, is unclear as to how the layer of reoxidation is formed on the spacer and the oxide layer, since the spacer is formed only on the surface of the feature (i.e not on the oxide layer), and figure 2C clearly depicts the layer of reoxidation 220 is not formed on oxide layer 215.

Allowable Subject Matter

Claims 26-28, 36-37, 39-46, 51-53, 55-58, 63 and 65 are allowed.

Art Unit: 2811

Papers related to this application may be submitted to Technology center (TC) 2800 by facsimile transmission. Papers should be faxed to TC 2800 via the TC 2800 Fax center located in Crystal Plaza 4, room 4-C23. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Group 2811 Fax Center number is (703) 308-7722 and 308-7724. The Group 2811 Fax Center is to be used only for papers related to Group 2811 applications.

Any inquiry concerning this communication or any earlier communication from the Examiner should be directed to *Examiner Nadav* whose telephone number is **(571) 272-1660**. The Examiner is in the Office generally between the hours of 7 AM to 4 PM (Eastern Standard Time) Monday through Friday.

Any inquiry of a general nature or relating to the status of this application should be directed to the **Technology Center Receptionists** whose telephone number is **308-0956**



Handwritten signatures of James L. Dwyer and Ori Nadav. The signature of James L. Dwyer is on the left, appearing to read "James L. Dwyer" and "Director TC 2800". The signature of Ori Nadav is on the right, appearing to read "Ori Nadav".

O.N.
8/5/04

ORI NADAV
PATENT EXAMINER
TECHNOLOGY CENTER 2800